

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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WILLY MALONE, et al.

NOTICE OF MOTION

Plaintiffs

Docket No.:

-against-

07 CV 9583 (LTS)(GWG)

NEW YORK PRESSMEN'S UNION
NUMBER 2 and NYP HOLDINGS INC., d/b/a
THE NEW YORK POST,

Defendants.

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PLEASE TAKE NOTICE that upon the Declaration of Barry I. Levy, Esq. and accompanying exhibits, and the accompanying Memorandum of Law, Defendant, NYP Holdings, Inc. ("NYP") will move before this Honorable Court at the United States District Court for the Southern District of New York, located at 500 Pearl Street, New York, New York 10007, for an Order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing the claims of Plaintiffs Eva Lee ("Lee") and Daniel Paulino ("Paulino") against NYP, and imposing sanctions pursuant to 28 U.S.C. § 1927.

PLEASE TAKE FURTHER NOTICE that opposing affidavits and memorandum of law must be served and filed pursuant to Local Civil Rule 6.1.

I HEREBY CERTIFY that, pursuant to the Individual Practices of Judge Laura Taylor Swain, I have attempted in good faith to resolve this matter without resort to motion practice. Specifically, I have exchanged letters and telephone calls with opposing counsel during March 2008 and April 2008 in an effort to secure dismissal of the claims Lee and Paulino have asserted against NYP, without success.

Dated: Uniondale, New York
August 26, 2008

RESPECTFULLY SUBMITTED:

/s/ Barry I. Levy
Barry I. Levy (BL 2190)
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*Counsel for Defendant NYP Holdings, Inc.
s/h/a News Corp.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of August, 2008, a copy of the foregoing Notice of Motion, together with the annexed Memorandum of Law and Declaration of Barry I. Levy, and the exhibits annexed thereto, were filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's CM/ECF system.

/s/ Barry I. Levy

Barry I. Levy, Esq.